INSTRUCTIONS FOR COMPLETING THE APPLICATION FOR CLEAN WATER ACT §401 WATER QUALITY CERTIFICATION AND/OR WASTE DISCHARGE REQUIREMENTS FOR PROJECTS INVOLVING DISCHARGE OF DREDGED AND/OR FILL MATERIAL TO WATERS OF THE U.S. AND/OR WATERS OF THE STATE

Is this the correct form for your project?

- Yes, if you proposing to conduct a project that involves dredging, filling, or otherwise impacting waters of the U.S.[1]
- Yes, if you are proposing to discharge dredged or fill material to waters deemed by the U.S. Army Corps of Engineers to be outside of Federal jurisdiction ("waters of the State"[2]) as long as the project involves dredging and/or filling in an area *greater* than: (1) two-tenths of an acre, (2) 400 linear feet[3], (3) and 25 cubic yards of dredge or fill[4]. If your project does not exceed these impact limits to waters of the State (described above) then you must complete a Notice of Intent for State Water Resources Control Board Order No. 2004-0004-DWQ[5].

This document describes information to be submitted to the California Regional Water Quality Control Board, Lahontan Region (Water Board) when applying for:

- Clean Water Act Section 401 Water Quality Certification (WQC)
- Authorization to dredge, fill, or otherwise impact waters not regulated by the U.S. Army Corps of Engineers under CWA section 404 ("waters of the State"), when such proposed impacts are above specific size limits stated above.

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[1] Prior to completing this form, Water Board staff recommends the project proponent contact the U.S. Army Corps of Engineers to determine whether they will assert jurisdiction over waters within the project area.

[2] All waters under the jurisdiction of the California Regional Water Quality Control Board are referred to as "waters of the State." In the context of this application form for discharges of dredged and fill material, "waters of the State" typically implies waters that the Army Corps of Engineers has not asserted jurisdiction over.

[3] Measurements in linear feet of proposed impacts shall be disclosed if the excavation and fill activity runs along a drainage or shoreline.

[4] These projects are typically regulated under Board Order No. R6T-2003-0004, *General Waste Discharge Requirements for Small Construction Projects, Including Utility, Public Works, and Minor Streambed/Lakebed Alteration Projects in the Lahontan Region Excluding the Lake Tahoe Hydrologic Unit.*

[5] State Water Resources Control Board Water Quality Order No. 2004-0004-DWQ, *Statewide General Waste Discharge Requirements for Dredged or Fill Discharges to Waters Deemed by the U.S. Army Corps of Engineers to be Outside of Federal Jurisdiction.* This Order regulates discharges of dredged or fill material to waters of the State not subject to Clean Water Act Section 404. In general, these are waters found to be "isolated" or "above the ordinary high water line." These General WDRs are restricted to dredge and fill discharges of less than two-tenths of an acre and 400 linear feet for fill and excavation discharges, and of less than 50 cubic yards for dredging discharges. Projects include land development, detention basins, disposal of dredged material, bank stabilization, revetment, channelization, and other similar projects. (See State Board's website at http://www.waterboards.ca.gov/resdec/wqorders/2004/wqo/wqo2004-0004.pdf.)

The contents of a complete WQC application are specified in California Code of Regulations (CCR) title 23, section 3856. Similar information is required for evaluating proposed discharges of waste, dredged, and fill material to waters of the State. These instructions are provided to assist you in providing all the information needed to complete the application for your project. Please contact the Water Board's South Lake Tahoe office at (530) 542-5400, or the Victorville Office at (760) 241-6583 if you need assistance.

Where necessary, attach additional sheets to supplement information provided within the application form. Additional documents must support information given within the application form; they are *not* to substitute for completing the form. For example "see attached" is not an adequate response to any question or field within the application form. Supplemental documents must be specifically cited within the application form. If necessary, page number(s) must be included within the citation, and documents indexed.

Incorrect, incomplete, and/or inaccurate applications may result in delays in application processing or a denial of certification. You will be notified within 30 days of receipt of the application if your application is incomplete. A review period of 60 days as required by 33 CFR 325.2 (b)(ii) will commence when the Water Board **receives a complete application package**. The 60-day review period can be extended up to one year under certain circumstances, and is extended indefinitely if you are notified that your application is incomplete.

Section 1: Applicant/Agent Information

Provide complete information as indicated on the application form of the legal applicant responsible for the proposed discharge and the address where legal notice may be served. The Applicant will be the entity or individual to whom the permit will be issued. *If the Applicant is an agency, company, corporation, or other organization, indicate the responsible officer and title.*

Section 2: Statement of Authorization

The applicant, which is the legal owner of property where proposed discharge of dredged and/or fill material would occur, must sign this section if an authorized agent is acting on behalf of applicant.

Section 3: Project Description

A detailed project plan and description of associated environmental impacts is required with every application. Clarification of information may be requested by Water Board staff during application review. This checklist is provided to aid applicants. Not all items on the checklist apply to every project, rather they are to be used as general guidelines for required information to be included. In addition, there may be items not covered on this checklist that may be requested

by Water Board staff on a project-by-project basis. Attach additional pages as necessary.

- ☐ Project Description
- ☐ Summary of overall project area
  - Description of project area; type(s) of receiving water body(ies); brief list/description of applicant's previous and future projects related to the proposed activity or that may impact the same receiving water body(ies).
- ☐ Responsible or involved parties
  - Names and phone numbers of anyone participating in the project
- ☐ Jurisdictional waters to be impacted
- ☐ Type(s) of water body(ies), flow duration (i.e. intermittent/perennial), inundation period, functions and values
- ☐ Species present within project site and/or upstream/downstream
- ☐ Threatened or endangered species present in stream course
- ☐ Existing functions and values
  - Wetted channel width, pool/riffle ratio, mean/maximum depths, complexity, shade/cover
- ☐ Current conditions at the site (mostly natural, degraded, heavily impacted)
- ☐ Construction methods to be used
- ☐ Adverse impacts
  - Include whether the adverse impacts will be temporary or permanent, and include amount of area to be affected (acres and/or linear feet)
- ☐ Drainage information; e.g., include flows for the 10-year and 100-year storm recurrence interval for pre- and post-project implementation
- ☐ Stockpile summary
  - Include amount of stockpile and proposed areas for storage
- ☐ Best Management Practices
- ☐ Site dewatering for either diversion or inundated excavation
- ☐ Solid waste disposal for dredged material

Attach additional pages as necessary.

Section 4: Existing Waters within Project Area

Provide the name and type of waterbodies existing within the project area. Not all waterbody(ies) may have formal names. Waterbodies that are not named on a published map should be referred to as Drainage A, Drainage B, etc… and should be labeled accordingly on all included maps and figures. Attach additional pages as necessary.

Section 5: Delineation Information

Provide the name and title of person delineating the extent of waters and their qualifications. Include wetland delineator certification information, if applicable. Attach additional sheets as needed, including delineation worksheets.

Section 6: Dredge & Fill Information

Indicate the waters of the United States and/or waters of the State that may be disturbed and impacted temporarily or permanently by project activities (i.e., filling or excavating below the normal high water line). The estimated quantity must be reported in **acres** of fill, **cubic yards** of excavated and dredged material, and **linear feet** (for channels, shorelines, riparian corridors, and other linear habitat). Attach additional pages as necessary.

Section 7: Impact Avoidance

The applicant must demonstrate that the project is designed to avoid and minimize impacts to wetlands and other waters of the state and/or U.S. within the project area to the maximum extent practicable.

The contents of a complete WQC application are specified in the California Code of Regulations (CCR) title 23, section 3856. Section 3856(h)(6) specifies that a complete application must provide: "A description of any other steps that have been or will be taken to avoid, minimize, or compensate for loss or significant adverse impacts to beneficial uses of waters of the State."[6]

Describe, in detail, measures that have been taken to avoid and minimize direct impacts to waters of the U.S. and/or waters of the State. If it is not possible to avoid or minimize impacts to waters or the U.S. and waters of the State, the applicant must provide the reasoning and evidence for that conclusion. The following represents the sequence in which proposals should be approached: (1) Avoid – avoid impacts to waters; (2) Minimize – modify project to minimize impacts to waters; (3) Mitigate – Where impacts cannot be avoided, adequate mitigation for the loss of water body acreage and function must be provided.

Information that may be relevant to this section of the application include:

- Alternatives considered that may involve less impact to waters of the U.S. and/or waters of the State.
- Measures to avoid impacts to wetlands or riparian vegetation within the project area.
- Explain how water quality will be maintained after the proposed project is complete in order to serve beneficial uses and pre-construction hydrologic functions of waters within the project area.
- For stream diversion plans, describe specific measures that will be taken and structures that will be installed to effectively isolate work areas from stream flows.
- Plans for disposal of water from dewatering activities (i.e., removing water from excavated areas).

[6] "Waters of the state" within this quote includes waters of the U.S."

NOTE: Disposal of water from dewatering activities to land or surface waters requires coverage under General Waste Discharge Requirements or a National Pollutant Discharge Elimination System (NPDES) Permit, respectively.

Section 8: Compensatory Mitigation

If it is determined that a watercourse will be unavoidably affected by the proposed project, mitigation will likely be necessary to preserve the function and beneficial uses of the site. Water Board staff may request clarification of information during application review. This checklist is intended to aid applicants in submitting complete and proper information regarding mitigation plans, to enable staff to effectively evaluate the project for WQC or Waste Discharge Requirements. Not all items on the checklist apply to each and every project, rather they are to be used as general guidelines for information to be included. In addition, there may be items not covered on this checklist that may be requested on a project-by-project basis. Attach a Mitigation Plan if needed. Attach additional pages and supporting documentation (such as a Bill-of-Sale for the purchase of mitigation credits) as necessary.

Wetlands: *Wetlands should not be disturbed unless absolutely necessary.* If it is determined that a wetland will be affected by the proposed project, mitigation will need to be implemented at a minimum of least a 1.5:1 mitigation-to-impact ratio, to result in no net loss of function and values, including temporary loss, of the wetland and its associated beneficial use.

Goals of mitigation:

- ☐ Variety of habitats to be created/restored
  - Pools, rearing sites, spawning sites, riparian habitat, type of wetland (i.e., seasonal, freshwater, saltwater, swale, vernal pool), etc.
- ☐ Functions and values of the created/restored habitat
  - Wetted channel width, pool/riffle ratio, mean/maximum depths, complexity, shade/cover, large woody debris recruitment, etc.
  - What are the functions and values of the created/restored wetland? (i.e., wildlife habitat, native plant communities, increased water quality, etc.)
  - Wildlife habitat, streambank stabilization through riparian habitat establishment, increased water quality, etc.
- ☐ Other mitigation steps taken
  - Avoid, minimize, mitigate
- ☐ Work plan
  - Project start date; extent of mitigation measures; specific work to be done at particular times; area of stream-channel profile receiving mitigation

Proposed Mitigation Site:

- ☐ Location and size of mitigation area
- ☐ Include site map and regional map of the mitigation project
- ☐ Existing functions and values
  - Wetted channel width, pool/riffle ratio, mean/maximum depths, complexity, shade/cover
- ☐ Current conditions on the site (mostly natural, degraded, heavily impacted)
- ☐ If the site is degraded, explain past uses leading to degradation
- ☐ Present and proposed uses of mitigation area
  - Provide habitat for flora/fauna, recreation, open space, etc.
- ☐ Current uses of the area
  - Agriculture, development, recreation, open space, etc.

Implementation Plan:

- ☐ Time schedule for mitigation
- ☐ Responsible Parties
- ☐ Rationale for expecting success
- ☐ Site Preparation Plan
- ☐ Planting Plan
  - Dates of proposed plantings, native species to be planted, density of plantings, etc.
- ☐ Irrigation Plan (if applicable)
- ☐ Sources of long-term funding (if necessary)

Monitoring:

- ☐ Responsible Parties
- ☐ Maintenance activities
- ☐ Names of individuals/contractors performing monitoring duties
- ☐ Performance Criteria
  - Wetted channel width, pool/riffle ration, mean/maximum depths, complexity, shade/cover, large woody debris recruitment, riparian establishment, flora/fauna, etc.
- ☐ How will success be judged? (Develop/define quantifiable measurements)
  - Increase in depths, decreased erosion rates, establishment of riparian species, recruitment of flora and fauna, increased pool/riffle ratio, increased shade, decreased water temperatures, increased water quality, etc.
- ☐ Is there a reference site?
  - If a reference site is incorporated in the plan, include where it is located and what the current conditions are (see performance criteria above)
- ☐ Monitoring methods
  - Describe in detail how the site will be monitored
- ☐ Reports
  - How often will monitoring reports be compiled?
- ☐ Schedule

- How often will the site be monitored? How long will the site be monitored? (Water Board staff recommend that sites be monitored annually during growing season for five years to ensure success.)

☐ Additional Mitigation Measures Needed
- Contingency Plan must be developed and implemented if monitoring indicates lack of success

Completion of Mitigation:

☐ Notice of completion (i.e., agencies to be contacted)
☐ Water Board confirmation

Final Success Criteria:

☐ Target functions and values achieved.
- Ultimate target functions and values of the mitigation (i.e., wetted channel width, pool/riffle ratio, complexity/cover, flora/fauna recruitment, etc.)

☐ Target hydrologic scheme achieved.
- Wetted width, bankfull width, mean/maximum depths, flow regime, etc.

☐ What are the ultimate hydrologic conditions for the site?
- Based on conditions prior to any degradation of human impacts (best case scenario)

☐ Target jurisdictional acreage created/restored.
☐ Total acres restored or created through mitigation project.
☐ Establishment of native riparian species.
- Based on monitoring, reviewed after determined number of years

☐ Names of individuals/contractors performing final mitigation site evaluation for achievement of success criteria.
☐ How will the mitigation site be protected from future impacts?

Section 9: Federal Permit(s) Applied for, or Approved

Provide information on Federal Permits/Licenses being sought or acquired for the proposed project. Identify any federal agency(ies) (e.g., the U.S. Army Corps of Engineers) from which permits/licenses are required or being sought for the proposed activities. Indicate permit/license type (e.g., for a U.S. Army Corps of Engineers permit, indicate whether an individual or Nationwide permit is being sought). Indicate license/permit number (e.g., Nationwide Permit number), if applicable. Attach copies of documentation such as federal permit applications, any final signed permits/licenses, notifications by federal agencies concerning the proposed activities, other pertinent communication with federal agencies regarding the proposed activities.

Section 10: State Permit(s)

Provide information on all other required license(s), permit(s), or agreement(s), including local regulatory approvals acquired or being sought. Attach a copy of

any final signed Agreement if available. If final documents are not available, attach copies of any draft documents and/or pertinent correspondence if available. Include information on any de-watering, NPDES, storm water permits, or Streambed or Lakebed Alteration Agreements.

Attach a copy of your application for a Streambed or Lakebed Alteration Agreement.

Section 11: California Environmental Quality Act (CEQA) Compliance

Submittal of completed, approved and/or signed CEQA documentation is required prior to approval of WQC. Ample time must be provided to the certifying agency to properly review a final copy of a valid CEQA documentation before certification can occur.

If a Notice of Exemption had been filed indicate the type and basis for exemption being claimed. If a CEQA document is in the process of being prepared, indicate the lead CEQA agency preparing the document and approximate expected completion date.

NOTE: Although CEQA documentation is not required to complete an application, pursuant to California Code of Regulations (CCR), title 23, section 3856(f), the certifying agency (Water Board) must be provided with and have ample time to properly review a final copy of valid CEQA documentation before taking a certification action. U.S. Army Corps of Engineers guidelines allow the Water Board 60 days to take action on a complete application. If the federal period for certification will expire before the Water Board has opportunity to consider the necessary environmental documentation, certification may be denied "without prejudice" pursuant to CCR title 23 section 3836(c) until an environmental document can be completed and considered.

Section 13: Application Fee

As part of a complete application, a minimum application fee of $500 must be submitted with the application. Make check payable to the Lahontan Regional Water Quality Control Board. The application fee must be received before an application is considered.

The review period of 60 days as required by 33 CFR 325.2 (b)(ii) will commence when the Water Board **receives a complete application package, including the application fee**.

Additional fees may be required depending on the nature of the project and the amount of impacts projected to occur once the proposed project is certified. The total fee amount will be assessed according to 23 CCR Sections 2200 (e) and

3833 (b)(2)(A), and will be specified as a condition of your certification order, if issued.

Section 14: Non-Compensatory Mitigation

Proposed Erosion Control and Storm Water Treatment Measures:
Describe how control measures incorporated into the proposed project will prevent and minimize indirect impacts to waterbodies, such as upland impacts which might affect water quality. These measures should include Best Management Practices (BMPs) to avoid (or if impacts are unavoidable, to minimize) impacts to waters of the U.S. and/or waters of the State such as:

- Erosion control and sediment retention measures.
- Map/description of material stockpiles, staging areas, equipment access routes, etc. (Access routes should be planned to minimize disturbance of vegetation.) Describe how equipment will cross streams, and any measures that will be taken to prevent discharge of sediment during stream crossings.
- Plans for responding to inclement weather. Describe how work areas and materials will be protected in the event of adverse weather, to prevent a discharge of earthen materials or other wastes from the site.
- Revegetation plans, including revegetation success criteria. (The applicant may wish to contact an advisor such as the Natural Resource Conservation Service for recommendations.)
- Winterization strategies to stabilize all bare soils and re-vegetation proposals. Please submit a map indicating the approximate locations of each method.
- Describe the methods proposed to treat storm water runoff from the project site prior to entering the storm drainage system, wetlands, streams, etc.

Proposed Source Control Measures
Describe the methods that will be used to reduce sources of pollutants, such as fertilizers, pesticides, hydraulic fluid, etc.

- Spill contingency plans. Describe measures to prevent and respond to potential spills of stored materials (e.g., chemicals, construction materials, fuels), mechanical fluids from leaking equipment or equipment washing, etc.
- Waste handling plans (for example, disposal of construction materials, and water from steam cleaning and concrete washout activities).

Attach additional pages as necessary.

Section 15: Past/Future Proposals by the Applicant

Provide information on other projects planned or implemented by the applicant. Provide a brief list/description, including estimated adverse impacts of any projects implemented by the applicant within the last five years or planned for implementation by the applicant within the next five years that are in any way related to the proposed activity or that may impact the same receiving water body(ies) as the proposed activity. Attach additional pages as necessary.